

EXHIBIT

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U.S. Department of Justice

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-DIR-9 and BP-DIR-10, including any attachments must be submitted with this appeal.

From: **DAVILA-BAJANA JUAN**
LAST NAME, FIRST, MIDDLE INITIAL

47580-053

REG. NO.

BA

UNIT

MCKEAN

INSTITUTION

Part A—REASON FOR APPEAL

On 4/8/03, I filed administrative remedy complaint about my ailments due to UNICOR excessive secondhand smoke (ETS) and silica dust. In retaliation for complaining about UNICOR ETS etc., I was fired from UNICOR.

On 4/29/03, I had a meeting with the Safety Manager, UNICOR Factory Manager, Mr. Sapko, Mr. Holohon and Mr. Klark. They coerced me to withdraw my administrative remedy against UNICOR for the ETS etc. In return I was promised to be reinstated to my UNICOR job in the Dayshift instead of nightshift, because the so-called ETS is better managed in the dayshift. The aforementioned individuals told me that they have talked to Ms. Forsyth and she will reinstate me to my UNICOR job. Between May 1-May 27, 2003, I repeatedly talked to Ms. Forsyth in the Mainline and in UNICOR, and she repeatedly told me that she will reinstate me in UNICOR before she departs to her new job. She deliberately left without keeping to her promise.

RELIEF:

I want to be reinstated to my UNICOR job.

9/12/03

DATE

SIGNATURE OF REQUESTER

Part B—RESPONSE

(1) UNICOR

REINSTATEMENT

31/2003

SEP 22 2003

DATE

GENERAL COUNSEL

FIRST COPY: WASHINGTON FILE COPY

CASE NUMBER: 304411-A1**Part C—RECEIPT**

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL

BP-231(13)

APRIL 1982

Administrative Remedy No. 304411-A1

Part B - Response

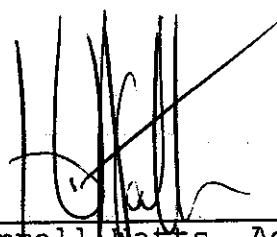
This is in response to your Central Office Administrative Remedy in which you contend you were removed from your UNICOR job assignment in retaliation for filing a complaint regarding excessive secondhand smoke and silica dust. You contend you were coerced to withdraw the Request for Administrative Remedy and promised, in return, reinstatement in UNICOR. As relief, you request to be reinstated.

Program Statement 8120.02, FPI Work Programs for Inmates, outlines the guidelines for inmate hiring, benefits and termination. The Superintendent of Industries (SOI) may remove an inmate from FPI work status according to the conditions outlined in the pay and benefits section of this policy.

Our review reveals the Warden and the Regional Director have adequately addressed the issue you raise in your appeal. As noted by the Regional Director, you were removed from your UNICOR position because of activities deemed to interfere with the safe and orderly running of the factory. We find the SOI's actions appropriate, within her discretion, and in compliance with the above-referenced policy. Moreover, you do not provide, nor do we find, any evidence to support your claim that your termination was retaliatory or otherwise improperly motivated. Finally, our findings indicate you voluntarily withdrew the administrative remedy in question, without any stipulations or conditions. You were not advised that you would be reinstated, as you have alleged.

Based on the foregoing, your appeal is denied.

November 17, 2003
Date



Harrell Watts, Administrator
National Inmate Appeals 